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U.S. Army Corps of Engineers issues new regulatory guidance

WASHINGTON, D.C., (November 1, 2001) – Responding positively to a report from the National Research Council/National Academy of Sciences, the U.S. Army Corps of Engineers released new official guidance to its regulatory offices. Regulatory Guidance Letter 01-1 requires more stringent standards for mitigating permitted impacts to the aquatic ecosystem, including wetlands.

Although the Corps currently requires mitigation when authorizing permits with environmental impacts, the NRC/NAS report recommended improving mitigation procedures in several ways:

- rely less on onsite mitigation, which often fails due to altered hydrology from the permitted action,
- ensure that mitigation projects function as intended,
- ensure that planned mitigation projects are indeed built, and
- take a watershed approach to mitigation.

“The intent is to require better mitigation and enforce permit compliance, and at the same time apply a consistent standard nation-wide,” said John Studt, the Corps’ Regulatory Chief. “The guidance is a thorough response to the legitimate concerns raised in the report. It should result in immediate environmental benefits while still allowing for the economic benefits of property development.”

Mitigation can offset adverse impacts by restoring former wetlands, enhancing existing ones, establishing new wetlands where none existed before, or preserving high-value wetlands threatened for development. The new guidance requires an apples-to-apples method for quantifying different mitigation techniques with a “credit” and “debit” system.

The guidance also requires that approved mitigation consider regional aquatic resource requirements. Corps Districts “should take an ecosystem approach to the formulation of compensatory mitigation projects considering the resource needs of immediate and nearby watersheds,” the guidance letter states.

Regulatory Guidance Letter 01-1 and the National Research Council/National Academy of Sciences Report are accessible online at http://www.usace.army.mil/civilworks/hot_topics/rglmitigation.htm. Access the Regulatory Program web site at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>.